

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 14 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FITNESS INTERNATIONAL, LLC,

Plaintiff - Appellee,

v.

LEAH ALSPAUGH,

Defendant - Appellant

DOES, 1 to 50, inclusive,

Defendant.

No. 23-2587

D.C. No.

8:22-cv-01800-DOC-DFM

Central District of California, Santa
Ana

ORDER

Before: RAWLINSON, BYBEE, and HURWITZ, Circuit Judges.

The court has received and reviewed the parties' responses to this court's October 12, 2023 order to show cause. To the extent that appellant's September 27, 2023 notice of appeal challenges the May 8, 2023 final order and judgment, this appeal No. 23-2587 is duplicative of pending appeal No. 23-2682. To the extent that appellant's September 27, 2023 notice of appeal challenges the district court's June 20, 2023 post-judgment order denying appellant's May 12, 2023 motion to vacate, this court lacks jurisdiction over this appeal because the September 27, 2023 notice of appeal was not filed within 30 days after entry of the district court's post-judgment order. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement

of timely notice of appeal is jurisdictional); *see also Hollywood v. City of Santa Maria*, 886 F.2d 1228, 1231 (9th Cir. 1989) (no separate judgment required for order denying post-judgment motion; time to appeal begins to run from entry of order denying post-judgment motion).

Consequently, this appeal No. 23-2587 is dismissed.

All pending motions in this appeal No. 23-2587 are denied as moot.

Appellant's appeal of the May 8, 2023 final order and judgment remains pending as appeal No. 23-2682.

DISMISSED.